

United Nations  
GENERAL  
ASSEMBLY

TWENTY-THIRD SESSION

Official Records

SIXTH COMMITTEE, 1043rd  
MEETING

Thursday, 17 October 1968,  
at 3.35 p.m.



NEW YORK

CONTENTS

	Page
<i>Agenda item 85:</i>	
<i>Draft Convention on Special Missions (continued) . . . . .</i>	1
<i>Appointment of the Drafting Committee . . . . .</i>	7

Chairman: Mr. K. Krishna RAO (India).

AGENDA ITEM 85

Draft Convention on Special Missions (continued)  
(A/6709/Rev.1 and Corr.1, A/7156 and Add.1 and  
2; A/C.6/L.646, A/C.6/L.669)

Article 4 (Sending of the same special mission to  
two or more States) (continued)

1. Mr. MUTUALE (Democratic Republic of the Congo) said that the Sixth Committee was anxious to ensure that the economic and social development of States was not impeded as a result of its work. The purpose of article 4 was to protect the interests of both sending and receiving States. The fact that according to the International Law Commission's text the sending State was required to consult all receiving States before sending a special mission might give the impression that the consent of all the receiving States was required before the mission could set out. Such an interpretation was possible because article 4 did not specify whether the purpose of the consultations was to secure agreement on, or merely to inform the receiving States about, the itinerary of the special mission. If the receiving States were merely to be informed of the itinerary, it might be useful if the word "consulted" in the Commission's text were replaced by "informed" or "notified". If, after receiving a notification, any receiving State refused to accept a special mission, it would be possible to resort to consultations. Obviously, therefore, although a sending State would always be obliged to inform all receiving States of the sending of a special mission, consultations would not always be necessary.

2. The obligation imposed on sending States by the Commission's text to consult all the receiving States before sending a mission therefore seemed excessive. Receiving States should, of course, be spared unpleasant surprises, but that could be done by informing them, before the mission set out, of its itinerary. Under article 4, a receiving State could exercise its right of refusal in order to avoid misunderstandings. Article 4 was thus of political value. In the case of articles 2 and 3 the consent of the receiving State related to the composition and task of the

special mission. The reasons for a receiving State's refusal under those articles would therefore be different from its reasons for refusal under article 4. The second part of article 4 as drafted by the Commission was therefore not superfluous and should be retained.

3. Mr. MULIMBA (Zambia) could not agree that article 4 was redundant. It was essential that all receiving States should be informed, before a special mission set out, of its itinerary. The formulation of the Commission's text of article 4 could be improved, but his delegation would have difficulty in accepting the Canadian amendment (A/C.6/L.669), which did not oblige sending States to inform all receiving States of the entire itinerary of the special mission. The drafting committee should be requested to produce a text which would maintain the idea of the Commission's text and cope with the loophole in the Canadian amendment.

Mr. Gobbi (Argentina), Vice-Chairman, took the Chair.

4. Mr. SONAVANE (India) said that article 4 should be maintained. It differed from articles 2 and 5, since the former dealt with special missions visiting a single State and the latter with the sending of joint special missions. The word "refuse" in the Commission's text might be replaced by the "decline" or "object". Apart from that, his delegation had no objection to the text, which was preferable to the Canadian amendment.

5. Mr. SPERDUTI (Italy) said that article 4 was not redundant. In its commentary on the article the International Law Commission made it clear that the object was to impose a legal obligation on the sending State to give prior notice to all the other States concerned of its intention to send a special mission to them. States parties to the Convention would therefore have a legal obligation which they would not have if the article were omitted. Under the terms of the article, a State which sent a mission to one State and then sent the same mission to another State without having previously informed both receiving States would have violated its legal obligation to both. At the 1042nd meeting, the Austrian representative had mentioned the need to distinguish between political and legal questions. The problem seemed to be more political than legal. A legal question might arise if a State which had consented to receive a special mission withdrew its consent because between the time of giving its consent and the time of the visit the special mission had visited another State. In his opinion a State might, in such circumstances, withdraw its consent. It was essential to preserve the legal

freedom of both sending and receiving States. In view of the political difficulties involved in the question, to which the Commission had drawn attention in its commentary, the Committee should think twice before inserting such an article in the draft Convention.

6. In so far as wording was concerned, that of the Canadian amendment was preferable to that of the Commission's draft.

7. Mr. QUERALTO (Uruguay) said that if the problem of the wording of the article was solved, some of the difficulties encountered by various delegations would disappear. Indeed, many of the difficulties seemed to derive from the fact that the Committee had decided to dispense with a general debate on the draft Convention. The comments made on the articles discussed so far showed that delegations held conflicting views on the principle underlying the draft Convention. Obviously, therefore, the discussions on each article were lengthy and would become even more protracted from article 21 onwards.

8. Article 4 should not be separated from articles 2, 5 and 6, since they all related in different ways to one and the same question, namely, the sending of special missions. Their provisions should therefore be combined in a single article. That would lead to uniformity of wording and clarify the procedures to be followed in sending special missions. Furthermore, it seemed illogical that article 3, which dealt with the field of activity of a special mission, should be placed between two articles relating to the sending of special missions.

9. For those reasons his delegation would vote in favour of referring article 4 to the drafting committee.

10. Mr. MOLINA LANDAETA (Venezuela) said that the provisions of article 4 were very useful. They related to a special situation which should be the subject of regulation by convention. A State sending a special mission to one or more States should be obliged to inform each of the receiving States of the task the special mission was intended to perform and of its itinerary. That would enable the receiving States to decide whether, and under what conditions, they would receive the mission. By inserting the article in its draft, the International Law Commission had made a valuable contribution to the development of *ad hoc* diplomacy. His delegation could not agree, therefore, that the text the Sixth Committee had approved for article 2 rendered article 4 redundant. The Italian representative had suggested that the problem was political in nature. It was not the first time, however, that a Committee engaged on codification work had had to cope with political questions. Article 4 certainly derived from article 2. But that did not make it redundant. At the 1042nd meeting, the Commission's Special Rapporteur had pointed out that many international disputes had been caused by special missions which had exceeded their mandate. If disputed arose when a mission visited only one State, obviously the possibility of dispute would be enhanced when a mission was to visit two or more States. That was why the Commission had included in its draft article 4, which, moreover, dealt with a situation similar to

that referred to in article 5 of the 1961 Vienna Convention on Diplomatic Relations. The relationship between articles 2 and 5 of the latter was analogous to that between articles 2 and 4 of the Commission's draft. It was difficult to understand, therefore, why delegations which had not objected to article 5 of the Vienna Convention should now contend that article 4 of the Commission's text was redundant. All that was necessary was to ensure that article 4 was so worded as to obviate misinterpretation. It was for the drafting committee to produce a satisfactory text, which should be based on the contents of paragraph (4) of the Commission's commentary on the article and the Canadian amendment, and on the comments made in the course of the Committee's debate. It was essential that article 4 should be maintained.

11. At its 1040th meeting, on the previous day, the Committee had agreed that amendments to articles 3 to 5 should be submitted no later than 16 October 1968 and amendments to articles 6 to 10 by 17 October. As, despite that agreement, an amendment to article 3 had been submitted on 17 October, the Venezuelan delegation would assume that deadlines for the submission of amendments were not binding and that amendments could be submitted even on the day on which the relevant articles were being discussed. His comments were not intended as a criticism of the Canadian delegation. On the contrary, the Venezuelan delegation had no objection to amendments being discussed the day they were submitted, and regarded the Canadian amendment as a useful contribution to the Committee's work. The Venezuelan delegation was attempting merely to obviate possible difficulties.

12. Mr. NAINA MARIKKAR (Ceylon) said that article 4 merely repeated an idea already expressed in article 2 and should therefore be deleted. If, however, the majority of delegations were in favour of its retention, Ceylon would support a clarifying amendment along the lines of that submitted by the Canadian delegation.

13. Mr. NACHABEH (Syria) said that article 4 related to questions other than those covered by articles 2 and 3 and should be retained. The Canadian amendment did clarify the Commission's text and should be borne in mind when the drafting committee was preparing the final text of the article.

14. Mr. ALVAREZ TABIO (Cuba) said that the Canadian amendment improved the form and content of article 4 and helped to link it with articles 2 and 3. Article 2 already provided that a sending State should obtain the prior consent of the receiving State before sending a mission. It seemed superfluous, therefore, to repeat that idea in article 4. The notification provided for in the Canadian amendment, on the other hand, would complete the information necessary to a receiving State and enable it to decide whether it wished to receive the special mission.

15. For the reasons given by the Commission in its commentary, article 4 should be maintained. If it were deleted, the receiving States would lack certain information on which their decisions should be based. The idea in the last sentence of the Commission's text of the article was implicit in article 2; the sentence should therefore be deleted.

16. Mr. BEN MESSOUDA (Tunisia) said that, in accordance with the wording of the Canadian amendment, the consent of the receiving State would have to be sought in the same form as the request of the sending State. At a previous (1041st) meeting, however, the Committee had agreed that consent could be tacit. The purpose of the Commission's text of article 4 was not to secure the consent of the receiving States but to ensure that those States were consulted about the membership and, possibly, the itinerary of the special mission. Article 4 was not superfluous, and if it was to be retained, a revised version of the Canadian amendment should be adopted.

17. Mr. BOLBOTENKO (Ukrainian Soviet Socialist Republic) said that his delegation understood the misgivings concerning the second sentence of the Commission's text. The point made in that sentence was covered by the text of article 2 approved by the Committee, since the requirement of preliminary mutual consent in article 2 was intended to apply to the sending of all special missions, including special missions to two or more States. He agreed that article 4 should be co-ordinated with articles 5 and 6, which related to other specific kinds of special missions. His delegation favoured the retention of article 4, while some of the elements in the Canadian amendment might be incorporated in the text by the drafting committee.

18. Mr. OWADA (Japan) said it was his delegation's understanding that consent given in accordance with article 2 should in principle, and did in fact, cover consent under article 4, and that the request for consent under article 2 should provide all the relevant information needed by the receiving State for the decision it would take under article 4. Article 4 was therefore somewhat redundant. Some delegations had drawn an analogy between articles 2 and 4 of the draft Convention, and articles 2 and 5 of the 1961 Vienna Convention on Diplomatic Relations. There was, however, a substantive difference between the two sets of articles: articles 2 and 5 of the Vienna Convention dealt with two different matters—the establishment of diplomatic relations and the accrediting of heads of missions, whereas articles 2 and 4 of the draft Convention dealt essentially with the same topic—the sending of special missions. Thus, article 4 did relate to a special case, which was covered by the general rule laid down in article 2. If many delegations attached importance to the retention of article 4, however, his delegation had no objection, but it would prefer the Canadian amendment as being the clearer text.

19. Mr. ROSENSTOCK (United States of America) said that his delegation would not itself formally propose the deletion of article 4 lest such a move be interpreted as having some dark political motivation. What an ambassador accredited to a country did while so accredited was a legitimate concern of the Government of that country; what a special mission did before or after it was sent to the country might not be. The text of article 4, to the extent that it might not be redundant, seemed to his delegation to be the elevation of some of the more unappealing political practices to the level of respectability of a legal norm. Those practices would be possible

under article 2. To dignify them with a separate article hardly seemed in the spirit of the purposes and principles of the United Nations Charter. In the light of the practices being protected, his delegation would be interested to hear the views of those who so strongly supported article 4, when the Committee took up article 50.

20. Mr. LUGOE (United Republic of Tanzania) said that his delegation considered it necessary to keep article 4 in the draft Convention. The principle underlying the article was that the receiving State should know through which countries the special mission would pass en route to that State. The point was not fully covered in either the Commission's text or the Canadian amendment. The former merely referred to advance consultation, and the latter said that a State intending to send the same special mission to two or more States should "so" inform the receiving States. His delegation would prefer a text which specifically required the sending State to disclose the itinerary of the special mission.

21. While his delegation would not categorically oppose the Canadian amendment, it would prefer to retain the word "consulted", as used in the Commission's draft, since in the course of consultations the receiving State could find out whether the special mission would pass through an unacceptable State. Surely it was less embarrassing to the sending State if the receiving State refused to accept the special mission before it was dispatched rather than after it had started on its way. The fact that the article might have political overtones should not deter the Committee from approving it; many legal rules had political implications.

22. Mr. ALLOTT (United Kingdom) said that all the members of the Committee were agreed on the principles underlying article 4, namely that a special mission might be sent to a State only with that State's consent; and that the receiving State, in deciding whether to give its consent, might wish to know certain facts about the special mission. Article 4 dealt with one of the facts that the receiving State might wish to know—whether or not the special mission was being sent to other States. The two principles were very well combined in the Canadian amendment. The last clause of that amendment—"when it seeks its consent"—introduced the point that the information might be relevant to consent.

23. His delegation took the view that the article fell into the category of those codifying common sense, and that if the Committee adopted various other articles which were not strictly necessary but reflected common sense, then it should adopt article 4, since the article did no harm and stated a useful rule. His delegation therefore intended to support the Canadian amendment.

24. Mr. VEROSTA (Austria) said that in drafting article 4 the Commission had followed article 5 of the 1961 Vienna Convention on Diplomatic Relations too closely, since the two articles did not have much in common. The basis for sending a special mission was always a bilateral agreement, and if a State sent a special mission to several other States, the basis would be the various bilateral

agreements. In his delegation's view, there was no necessity for article 4, since, when a sending State did not have a special mission return to its territory between visits to various States, it was simply in order to save travel expense and time. Since many delegations thought highly of the article, however, his delegation would not propose its deletion.

25. His delegation considered the Canadian amendment the better text of the two. However, it should not be elevated to the rank of a separate article. The text should make it clear that the propositions in articles 4, 5 and 6 were simply applications of the basic principle in article 2.

26. Mr. ROBERTSON (Canada) noted that the Tunisian representative had referred to the wording of the French text of the Canadian amendment, which used the term "interviendra auprès de lui"; the English version, which was the original, used the term "seeks", which was somewhat less formal than the French term.

27. Mrs. d'HAUSSY (France) said that her delegation had no substantive objection to the Commission's text of article 4, and would support the Canadian amendment, which clarified it.

28. Mr. OGUNDERE (Nigeria) said his delegation was convinced that it was essential to have article 4 in the draft Convention. One beneficial effect of the requirement in article 2 that the receiving State consent to the sending of special missions was the elimination of surprise. That should apply also in cases where the same special mission was sent to two or more States. Article 4 was likewise useful in that it did away with any doubts concerning the duty of the sending State to obtain the consent of each receiving State to the itinerary of the special mission. His delegation supported the Canadian amendment, which clarified the Commission's text.

*Mr. Rao (India) resumed the Chair.*

29. Mr. RWAGASORE (Rwanda) said that article 4 laid down the same rules in respect of a special mission sent to two or more States as article 2 did with regard to a special mission sent to one State. The added factor in article 4 was the requirement of acceptance from more than one State. It was agreed that the principle of article 2 remained valid, and it was unnecessary to retain the second sentence of article 4, which stated that fact. In relation to the sending State, other States were in a sense monadic, and the sending State consulted with each of them as provided in article 2. That idea might be repeated in article 4.

30. Article 4 contained another element—the right of every receiving State to know whether the same special mission was being sent to other States. What the mission was to do in the other States, and its itinerary, were questions of fact which should not be dealt with by legal rules. The mutual interest of the States concerned should lead the sending State to provide additional information as appropriate.

31. Mr. YAÑEZ-BARNUEVO (Spain) said that his delegation supported the principle expressed in article 4, and favoured the Canadian amendment which stated that principle more clearly and correctly and did

away with any overlapping with article 2. He saw no objection to the drafting committee's considering the possibility of combining articles 2, 4, 5 and 6 in one article.

32. Mr. ENGO (Cameroon) said that a situation might arise in which, after States A, B and C had given their consent to the sending of one special mission, the sending State might decide to send the same special mission to State X as well. It was only fair in such circumstances that States A, B and C should be informed that the special mission would also visit State X before it arrived in their territory. Yet, under the wording of the Canadian amendment, the consent of those States would have been already sought and granted. He hoped that the drafting committee would consider the implications of situations of that type.

33. Mr. SONAVANE (India), supported by Mr. BEN MESSOUDA (Tunisia) and Mr. JAFRI (Pakistan), suggested that, as the members of the Committee were in general agreement on the principle underlying article 4 and the only differences were on questions of drafting, the Committee should transmit the Commission's text of article 4 and the Canadian amendment to the drafting committee.

34. Mr. HOUBEN (Netherlands) said that article 4 was designed to obviate difficulties and disagreements in the case of a special mission sent to more than one State. His delegation supported the Indian proposal that the Canadian amendment be referred to the drafting committee, on the understanding that the drafting committee would consider it in the context of article 2 and would feel free to incorporate the Canadian text in article 2 or to make any combination of articles it saw fit.

35. Mr. MULIMBA (Zambia) said that he wished to submit for consideration by the drafting committee a formula which would cover the situation mentioned by the representative of Cameroon, where it became necessary for a special mission, after its departure from the sending State, to visit additional States not originally consulted. He hoped that the following text would be considered by the drafting committee together with the Canadian amendment:

"When the sending State decides, after the commencement of the itinerary of the special mission that the mission should visit a State or States not originally informed, it shall, on seeking the consent of the additional receiving State or States, disclose details of its itinerary in the State or States previously visited by the special mission."

36. Mr. KESTLER FARNES (Guatemala) said that if the seeking of consent mentioned in the Canadian amendment was to be regarded as equivalent to the consultations mentioned in the International Law Commission's text, there could be no serious objection to the Canadian amendment. On the other hand, if the Canadian amendment was not intended to have the same meaning as the Commission's text, it might be argued that the principle of consent was already included in article 2, so that it was not necessary to retain article 4. However, if the situation referred to in article 4 was regarded as a special case of consent, it would be more orderly to incorporate that provision

in article 2 or to place it together with articles 5 and 6 after article 2, as the representative of Uruguay had proposed. Although his delegation would prefer the Commission's text, it would not oppose the Canadian amendment if the majority of delegations voted in favour of it.

37. Mr. KIBRET (Ethiopia) supported the Indian proposal that article 4 be referred to the drafting committee. He proposed, however, that before that was done the Committee should vote on the principle embodied in article 4. If the principle was accepted, the Canadian amendment might also be referred to the drafting committee.

38. The CHAIRMAN said that it would be somewhat irregular to vote on a principle when a written amendment had been submitted.

39. Mr. TATHY (Congo, Brazzaville) said that article 4 should be retained, since it referred to a different situation than article 2, although it was a logical consequence of the latter. The Canadian amendment avoided the ambiguities which had been pointed out in the Commission's text, but he did not share the view that a mention of itineraries should be included in the amendment. In practice, a special mission might decide to visit several States and might, after its departure, be prevented from visiting one of them and thus be obliged to change its itinerary.

40. Mr. ALCIVAR (Ecuador) said that, although many speakers had questioned the necessity for retaining article 4, no formal amendment to delete it had been submitted. Both the Commission's text and the Canadian amendment set forth the same principle. There was disagreement only on the wording. He therefore proposed that article 4, together with the Canadian amendment and the comments of the Committee, in particular those of Zambia and Cameroon, be referred to the drafting committee, so that the Sixth Committee could reconsider the article after it had been redrafted.

41. Mr. NOAMAN (Yemen) said that his delegation supported the Canadian amendment but considered that the sending State should be in a position to inform the receiving State of the State or States through which it would pass on its journey to the accredited State or States.

42. Mr. ENGO (Cameroon) explained that, whereas the representative of Zambia was concerned that all the receiving States should be informed if a special mission decided, after embarking on its itinerary, to visit a State or States not originally informed, his own earlier proposal had been only that all the receiving States not yet visited should be informed of such a decision.

43. Mr. LAMPTEY (Ghana) reminded the Committee that the Canadian amendment had been submitted as the result of reservations expressed regarding the original text of article 4. He considered that a vote should be taken on the Canadian amendment, and on the Zambian proposal also, because the drafting committee should not be asked to take action on questions of principle or substantive matters.

44. Mr. FRANCIS (Jamaica) said that in his view there was no difference in principle between the Com-

mission's text and the Canadian amendment and therefore no reason to take a vote. Moreover, it would be difficult for the drafting committee to change the wording of the Canadian amendment after its formal adoption by the Committee.

45. Mr. ROBERTSON (Canada) said that his delegation's amendment could be regarded as differing in substance from the text of the International Law Commission because it did not include the second sentence of the Commission's draft. The point had also been raised in the Committee whether the use in the Canadian text of the word "inform" rather than the term "consulted", as in the Commission's text, constituted a difference of substance. His delegation would not insist that its amendment should be put to the vote and would agree to have it referred direct to the drafting committee. He proposed that the Sixth Committee should vote on whether or not the two texts differed in substance. It would be difficult for the drafting committee to produce a text based on the original text and the amendment if the Sixth Committee had agreed that there was a difference of substance between the two.

46. The CHAIRMAN said that, in his opinion, since the Canadian amendment omitted the second sentence of the Commission's text, it entailed a difference of substance.

47. Mr. BEN MESSOUDA (Tunisia) said that his delegation would be unable to vote on the Canadian amendment if, as the Canadian representative had implied, the French text did not reflect the sponsor's original intention.

48. Mr. FRANCIS (Jamaica) said he did not agree with the Canadian representative that the difference between the two texts could be regarded as a question of substance. The right to refuse, which was spelt out in the second sentence of the Commission's text, was implicit in the term "consent" used in the Canadian amendment. However, his delegation was ready to vote on the Canadian text.

49. Mr. MYSLIL (Czechoslovakia) said that difficulties similar to those which the Committee was now experiencing arose at the beginning of every codification conference. In order to avoid such an occurrence, he urged delegations to vote on the Canadian amendment. The Canadian representative had agreed that it could be argued that there was a difference of substance between the Commission's text and his own in at least two instances. If the Canadian amendment was adopted, the drafting committee could then be asked to deal with matters of style and uniformity.

50. Mr. KESTLER FARNES (Guatemala) said that, in his delegation's view, the most important substantive difference between the Canadian text and the Commission's text was that the former substituted the concept of consent for that of prior consultation. He would welcome an explanation by the Expert Consultant of the spirit in which the Commission's text had been drafted and the reasons why consultation had been referred to rather than consent.

51. Mrs. KELLY DE GUIBOURG (Argentina) said that the Canadian amendment was an improvement

on the original text of article 4, because it ruled out the possibility of a State's sending out a special mission which another State might subsequently refuse to receive. The Commission's text had been ambiguous on that point.

52. Mr. ALLOTT (United Kingdom) said that his delegation would find it difficult to vote on the second sentence of the Commission's text. The idea contained in that sentence had not been omitted in the Canadian amendment but was reflected in the words "when it seeks its consent". It was clear from the provisions of article 2 that consent allowed the possibility of refusal. While the Commission's text set forth the same principle, his delegation preferred the Canadian wording. He proposed that both texts should be referred to the drafting committee, which might fruitfully consider the Uruguayan suggestion for incorporating articles 4, 5 and 6 in article 2.

53. Mr. ALCIVAR (Ecuador) requested clarification from the Canadian representative as to whether or not his amendment had been intended to differ in substance from the original text. If the Canadian amendment was to be interpreted as meaning that a State did not have the right to refuse to accept a special mission, a vote would have to be taken.

54. Mrs. d'HAUSSY (France) said that her delegation agreed with the United Kingdom representative's interpretation of the Canadian amendment.

55. Mr. HAMBYE (Belgium) endorsed the view expressed by the United Kingdom representative and supported his proposal.

56. Mr. TATHY (Congo, Brazzaville) agreed with the United Kingdom representative that the Canadian amendment did not differ in principle from the Commission's text and that, in the light of the of the provisions relating to consent in article 2 as amended by the Committee, the Canadian wording was preferable to the Commission's text.

57. Mr. CHAMMAS (Lebanon) said that for all practical purposes there was no substantial difference between the Commission's text and the Canadian text. The difference was only one of style and precision. He hoped that the drafting committee would be able to produce a generally acceptable text.

58. Mr. KIBRET (Ethiopia) repeated his earlier proposal that the Sixth Committee should vote on the principle embodied in article 4 before referring the article to the drafting committee. The use of the word "consulted" in the Commission's text was perhaps unfortunate and was not explained in the commentary. It should be made clear that the article should not be interpreted as meaning that a receiving State should be consulted as to whether or not the sending State should send a special mission to another State, since such a provision would impinge on the right of the sending State. The State consulted had only the right to refuse to receive the mission itself.

59. Mr. LAMPTEY (Ghana) said that his delegation had proposed that the Canadian amendment should

be put to the vote in order to avoid a repetition in the drafting committee of the Sixth Committee's discussion. It was the practice at all codification conferences that when articles were adopted they were then sent to the drafting committee in order to ensure uniformity and elegance. The Committee should follow that practice in respect of article 4 as it had done in respect of article 2. The drafting committee would be free to make any combination of articles it saw fit. In view of the difference of opinion in the Committee, it would be unwise to send both the Commission's text of article 4 and the Canadian amendment to the drafting committee.

60. Mr. OSTROVSKY (Union of Soviet Socialist Republics) pointed out that, according to the definition in the last sentence of rule 131 of the rules of procedure of the General Assembly, the Canadian proposal was an amendment. Therefore, regardless of whether or not the Canadian amendment affected the substance of the Commission's text, it should be voted on first.

61. As to the suggestion that the Commission's text and the amendment should be referred to the drafting committee, he pointed out that the latter was a small body and was not in as good a position as the full Committee to take the necessary decisions. On the other hand, the suggestion that article 4 should be combined with other articles should be referred to the drafting committee.

62. Mr. MOLINA LANDAETA (Venezuela) recalled that various amendments to article 3, which members of the Committee had considered merely drafting changes, had in the Expert Consultant's view been amendments of substance. The Secretariat, in paragraph 4 of its note on methods of work and procedures (A/C.6/L.646), had pointed out that in codification conferences, generally speaking, amendments which raised important questions of principle and seemed to raise divergencies of views unbridgeable by a compromise text were voted on. But the question then was how to determine whether an amendment raised important questions of principle. In his delegation's view, it was for the Committee to decide. Accordingly, the question whether the Canadian amendment was substantive or not should be put to the vote.

63. Mr. ROBERTSON (Canada) said that the second sentence of the Commission's text of article 4 was covered in the Canadian amendment by the phrase "it seeks its consent". In saying that there was a difference of substance between the two texts because the Canadian amendment did not include the second sentence of the original text, he had meant simply that it would be a mistake to include the second sentence if the Canadian amendment was adopted, not that the receiving State would not have the right to refuse under the Canadian amendment.

64. Mr. ALLOTT (United Kingdom) said that in his delegation's view the concept of "consulted" in the Commission's text was contained in the word "inform" in the Canadian amendment, and the concept of "refuse" in the Commission's text was contained in the word "consent" in the Canadian amendment. On that basis, his delegation would vote for the Canadian amendment.

65. The CHAIRMAN invited the members to vote on the Canadian amendment.

*The Canadian amendment (A/C.6/L.669) was approved by 60 votes to none, with 19 abstentions.*

66. Mr. ENGO (Cameroon) said that his delegation had voted for the Canadian amendment on the understanding that the problems arising from the situation he had mentioned in his earlier statement would be considered by the drafting committee.

67. Mr. FRANCIS (Jamaica) said that his delegation had abstained in the vote, not because it differed on the substance of the matter, but because the amendment had been put to the vote on the assumption that a matter of principle was involved.

68. Mr. MULIMBA (Zambia) said that his delegation had voted for the Canadian amendment, but hoped

that the Zambian oral amendment would be considered by the drafting committee.

#### Appointment of the Drafting Committee

69. The CHAIRMAN announced that, in accordance with the decision taken at the 1039th meeting, he was appointing the Drafting Committee, composed of the Democratic Republic of the Congo, Denmark, France, Ghana, Iraq, Italy, Japan, Mexico, Pakistan, Peru, Poland, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The representative of Iraq would be the Chairman of the Drafting Committee. The Rapporteur and the Expert Consultant would attend its meetings in their respective capacities.

*The meeting rose at 6.35 p.m*

